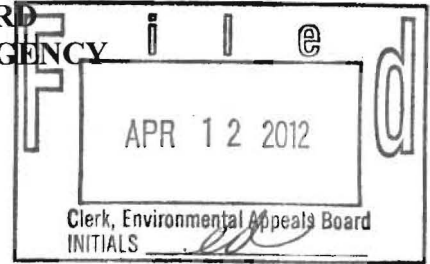


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
)

San Pedro Forklift)

Docket No. CWA-09-2009-0906)
_____)

CWA Appeal No. 12-02

**ORDER GRANTING SECOND MOTION FOR
EXTENSION OF TIME TO FILE APPEAL**

On January 27, 2012, Administrative Law Judge Barbara A. Gunning issued an Initial Decision in the above-captioned case. By motion received February 13, 2012, Region 9 of the U.S. Environmental Protection Agency, Complainant in the case, requested an extension of time to file a notice of appeal of the Initial Decision, along with an accompanying appellate brief. The Environmental Appeals Board granted the motion, establishing a filing deadline of April 18, 2012, for submission of the appellate brief.

Region 9 now seeks an additional nine days, until April 27, 2012, to consult with a staff attorney in EPA's Office of General Counsel. Region 9 contacted San Pedro Forklift, Respondent below, and determined that it does not object to the granting of this motion.


For good cause shown, the motion is hereby **GRANTED**. If, after consulting with appropriate officials, Region 9 elects to appeal the Initial Decision, the Region's notice of appeal and appellate brief must be filed with the Clerk of the Environmental Appeals Board on or before **Friday, April 27, 2012.**¹

¹This order extends the appeal deadline beyond the period (forty-five days from the date of service of the Initial Decision) within which the Environmental Appeals Board would ordinarily determine, under 40 C.F.R. § 22.30(b), whether to undertake *sua sponte* review of an

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: April 12, 2012

By: 
Catherine R. McCabe
Environmental Appeals Judge

unappealed Initial Decision. Normally, because the time for a party to file an appeal is thirty days from the date of service of the Initial Decision, the Board has fifteen additional days to make its determination respecting *sua sponte* review. To preserve that interval in this case, the Board will defer any consideration of *sua sponte* review until after the revised deadline for filing an appeal expires on April 27, 2012. See 40 C.F.R. § 22.1(c) (when a procedural issue arises that is not explicitly addressed in the Consolidated Rules of Practice at 40 C.F.R. part 22, the Board has discretion to resolve the issue as it deems appropriate). As a result, the Initial Decision shall be regarded as the final order of the Environmental Appeals Board pursuant to 40 C.F.R. § 22.27(c) *only* if: (1) no appeal is filed on or before April 27, 2012; and (2) the Board does not elect to review the Initial Decision *sua sponte* on or before Monday, May 14, 2012 (i.e., the fifteenth day after the Region's revised deadline for filing an appeal).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Granting Second Motion for Extension of Time to File Appeal** in the matter of *San Pedro Forklift*, CWA Appeal No. 12-02, were sent to the following persons in the manner indicated:

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Date: APR 12 2012



Annette Duncan
Secretary